

State: District of Columbia **Filing Company:** New York Marine and General Insurance Company
TOI/Sub-TOI: 09.0 Inland Marine/09.0005 Other Commercial Inland Marine
Product Name: Safehold Builders Risk - IM 0283
Project Name/Number: Safehold Builders Risk - IM 0283/PS-18-IM-F-38

Filing at a Glance

Company: New York Marine and General Insurance Company
Product Name: Safehold Builders Risk - IM 0283
State: District of Columbia
TOI: 09.0 Inland Marine
Sub-TOI: 09.0005 Other Commercial Inland Marine
Filing Type: Form
Date Submitted: 05/03/2018
SERFF Tr Num: PRSS-131485667
SERFF Status: Closed-APPROVED
State Tr Num:
State Status:
Co Tr Num: PS-18-IM-F-38

Effective Date: 06/15/2018
Requested (New):
Effective Date: 06/15/2018
Requested (Renewal):
Author(s): Jameka DeSanctis
Reviewer(s): Carmen Belen (primary)
Disposition Date: 05/08/2018
Disposition Status: APPROVED
Effective Date (New): 06/15/2018
Effective Date (Renewal): 06/15/2018

State: District of Columbia
TOI/Sub-TOI: 09.0 Inland Marine/09.0005 Other Commercial Inland Marine
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Filing Company: New York Marine and General Insurance Company

General Information

Project Name: Safehold Builders Risk - IM 0283

Project Number: PS-18-IM-F-38

Reference Organization: N/A

Reference Title: N/A

Filing Status Changed: 05/08/2018

State Status Changed:

Created By: Jameka DeSanctis

Corresponding Filing Tracking Number:

Status of Filing in Domicile:

Domicile Status Comments:

Reference Number: N/A

Advisory Org. Circular: N/A

Deemer Date:

Submitted By: Jameka DeSanctis

Filing Description:

New York Marine And General Insurance Company is submitting for your review and approval a new Commercial Inland Marine endorsement for use with our Safehold program Builders' Risk policies.

We thank you for your consideration and respectfully request your approval.

Please do not hesitate to contact us with any questions or comments.

Company and Contact

Filing Contact Information

Jameka DeSanctis, Sr. State Filings
Specialist

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Morristown, NJ 07960

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973-532-1747 [Phone]

Filing Company Information

New York Marine and General
Insurance Company

412 Mt. Kemble Ave., Ste 300C
Morristown, NJ 07960

(973) 532-1718 ext. [Phone]

CoCode: 16608

Group Code: 256

Group Name: New York Marine

Group

FEIN Number: 13-2703894

State of Domicile: New York

Company Type:

State ID Number:

Filing Fees

Fee Required? No

Retaliatory? No

Fee Explanation:

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
APPROVED	Carmen Belen	05/08/2018	05/08/2018

State:	District of Columbia	Filing Company:	New York Marine and General Insurance Company
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Disposition

Disposition Date: 05/08/2018
Effective Date (New): 06/15/2018
Effective Date (Renewal): 06/15/2018
Status: APPROVED

Comment:

Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Readability Certificate	APPROVED	Yes
Supporting Document	Copy of Trust Agreement	APPROVED	Yes
Supporting Document	Expedited SERFF Filing Transmittal Form	APPROVED	Yes
Supporting Document	Consulting Authorization	APPROVED	Yes
Supporting Document	Explanatory Memo	APPROVED	Yes
Form	SECTION 42 LOW INCOME HOUSING TAX CREDIT COVERAGE	APPROVED	Yes

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Form Schedule

Item No.	Schedule Item Status	Form Name	Form Number	Edition Date	Form Type	Form Action	Action Specific Data	Readability Score	Attachments
1	APPROVED 05/08/2018	SECTION 42 LOW INCOME HOUSING TAX CREDIT COVERAGE	IM 0283	0518	END	New			IM 0283 0518 SECTION 42 LOW INCOME HOUSING TAX CREDIT COVERAGE.pdf

Form Type Legend:

ABE	Application/Binder/Enrollment	ADV	Advertising
BND	Bond	CER	Certificate
CNR	Canc/NonRen Notice	DEC	Declarations/Schedule
DSC	Disclosure/Notice	END	Endorsement/Amendment/Conditions
ERS	Election/Rejection/Supplemental Applications	OTH	Other

SECTION 42 LOW INCOME HOUSING TAX CREDIT COVERAGE

SCHEDULE

(The Delay in Completion Schedule is extended to include the following)

COVERAGES (check if coverage applies)		
<input checked="" type="checkbox"/>	LOSS OF SECTION 42 LOW INCOME HOUSING TAX CREDIT	Limits
	The most "we" pay for any one occurrence of "Loss of Section 42 Low Income Housing Credit" is:	\$

COVERAGES

This section is amended to include the following:

3. Loss of Section 42 Low Income Housing Tax Credit –

- a. **Coverage** -- "We" pay for "your" "Loss of Section 42 Low Income Housing Tax Credit" that would have otherwise been available to "you", if the inability to claim "your" Section 42 Low Income Housing Tax Credit results from a "delay" for which a covered claim is made under the Builders' Risk Coverage form to which this endorsement is attached.
- b. **Coverage Limitations** -- "We" only cover "your" "Loss of Section 42 Low Income Housing Tax Credit" sustained or caused by a postponement or interruption in "your" ability to claim the Section 42 Low Income Housing Tax Credit when "your" inability to claim a credit arises out of a "delay" to a "building or structure" at a "jobsite" described on the Delay In Completion Schedule.

ADDITIONAL PERILS EXCLUDED

Solely with respect to "Loss of Section 42 Low Income Housing Tax Credit", this section is amended to include the following:

12. Delay In Receiving Tax Credit – "We" shall not be liable for any increase in Delay in Completion Loss caused by or resulting from:

- a. The enforcement of any ordinance or law regulating construction, rebuilding, repair, replacement, removal, or reconstruction of the work;
- b. The interference by strikers or other persons with the transportation of property, the construction, rebuilding, repairing or replacing of property insured hereunder;
- c. Any consequential loss including but not limited to loss of market;
- d. Loss or damage to property not covered by this policy;
- e. Non-availability of funds other than insurance reimbursements;
- f. Import, export or customs restrictions and / or regulations;
- g. Alterations, additions, improvements or other changes made in the designs, plans, specifications or other contract documents for the work which are required to effect the repair or replacement of the damaged property;
- h. The suspension, lapse or cancellation of or the failure to obtain, maintain or extend any permit, license, contract or purchase order commitments;
- i. The failure to use due diligence and dispatch in restoring the damaged property to the condition existing prior to the loss or damage;
- j. Any change order or other cause which results in deviation from the original progress schedule, or revisions thereto, and which is independent of insured loss or damage which gives rise to a "delay", whether occurring prior to or after an insured "delay".

HOW MUCH WE PAY

Solely with respect to "Loss of Section 42 Low Income Housing Tax Credit", this section is amended to add the following:

- 3. Applicable Time Period** – The time period for which "we" pay for a "Loss of Section 42 Low Income Housing Tax Credit" begins on the day of the estimated completion date of the covered property as per the "construction documents" and ends on the day when the property at a "jobsite" described on the Delay In Completion Schedule should be repaired, rebuilt or replaced with reasonable speed and like kind and quality. This period of time will not be limited by the expiration date of the policy.
- 4. Determining Amount of Loss** – The amount of "Loss of Section 42 Low Income Housing Tax Credit" will be determined based on relevant sources of information, including, but not limited to:
 - a. The "Partnership Agreement";
 - b. The "Construction Documents"; and
 - c. Cost certifications, tax credit approvals, including Internal Revenue Code form 8609, and state housing agency correspondence.
- 5. Valuation of Loss** -- The initial valuation of "your" "Loss of Section 42 Low Income Housing Tax Credit" will be equal to 85% of the projected annual Section 42 Low Income Housing Tax Credit as per the "Partnership Agreement" pertaining to the covered property. The total valuation will later be adjusted to the actual tax credit awarded by the Internal Revenue Code Form 8609 for the covered property, subject to the time period of loss, and not to exceed the limit provided by this endorsement.

Example:

Projected annual Section 42 Low Income Housing Tax Credit:	\$120,000
Estimated "Building or Structure" completion date:	April 1
Date "Building or Structure" should be repaired/rebuilt:	August 31
Delay period:	5 months

Projected annual Section 42 Low Income Housing Credit of \$120,000 x 85% = \$102,000.

$\$102,000 / 12 \text{ months} = \$8,500 \text{ per month.}$

$\$8,500 \text{ per month} \times 5 \text{ month delay period} = \$42,500 \text{ initial valuation payment owed to Insured.}$

The \$42,500 initial valuation payment to "you" will be adjusted based on the actual annual Low Income Housing Tax Credit provided by the Internal Revenue Code form 8609 using the same formula set forth in 5. Valuation of Loss, using the actual annual tax credit as indicated on the Internal Revenue Code Form 8609 in place 85% of the projected tax credit.

In the event the actual annual Section 42 Low Income Housing Tax Credit awarded by the Internal Revenue Code Form 8609 for the covered property is less than 85% of the projected annual Section 42 Low Income Housing Tax Credit as per the "Partnership Agreement", "we" will be entitled to a refund from "you" equal to the difference between the amount of the initial valuation payment paid to the "you" and the actual annual Section 42 Low Income Housing Tax Credit provided by the Internal Revenue Code Form 8609.

ADDITIONAL CONDITIONS

Solely with respect to "Loss of Section 42 Low Income Housing Tax Credit", this section is amended to add the following conditions:

Coinsurance Condition Does Not Apply --The provisions described under Coinsurance do not apply to the coverages provided under this endorsement.

Subrogation -- If the Company pays a claim under this policy, it will be subrogated, to the extent of such payment, to all the Insured's rights of recovery from other persons, organizations and entities. The Insured will execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Company will have no rights of subrogation against:

- a. Any person or entity, which is a Named Insured or an Additional Insured;
- b. Any other person or entity, which the Insured has waived its rights of subrogation against in writing before the time of loss; Notwithstanding the foregoing, it is a condition of this policy that the Company shall be subrogated to all the Insured's rights of recovery against:
 - 1) Any Architect or Engineer, whether named as an Insured or not, for any loss or damage arising out of the performance of professional services in their capacity as such and caused by an error, omission, deficiency or act of the Architect or Engineer, by any person employed by them or by any others for whose acts they are legally liable, and
 - 2) Any manufacturer or supplier of machinery, equipment or other property, whether named as an Insured or not, for the cost of making good any loss or damage which said party has agreed to make good under a guarantee or warranty, whether expressed or implied. The Insured will act in concert with the Company and all other interest concerned in the exercise of such rights of recovery. The Insured will do nothing after a loss to prejudice such rights of subrogation. If any amount is recovered as a result of such proceedings, the net amount recovered after deducting the costs of recovery, will accrue first to the Company. Any excess of this amount will be remitted to the Insured. If there is no recovery, the interests instituting the proceedings will bear the expense of the proceedings proportionately.

ADDITIONAL DEFINITIONS

As used in this endorsement, "Construction Documents" means construction contracts, construction management contracts, construction budgets and construction time lines.

As used in this endorsement, "Loss of Section 42 Low Income Housing Tax Credit" means the inability of the Insured(s), to claim Low Income Housing Tax Credits as per Section 42 of the Internal Revenue Code of 1986, as amended, according to the timeline projected in the "Partnership Agreement".

As used in this endorsement, "Partnership Agreement" means the agreement of limited partnership of the first named insured outlining the duties and benefits received by its partners.

IM 0283 0418

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Rate Information

Rate data does NOT apply to filing.

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Supporting Document Schedules

Bypassed - Item:	Readability Certificate
Bypass Reason:	N/A
Attachment(s):	
Item Status:	APPROVED
Status Date:	05/08/2018

Bypassed - Item:	Copy of Trust Agreement
Bypass Reason:	N/A
Attachment(s):	
Item Status:	APPROVED
Status Date:	05/08/2018

Bypassed - Item:	Expedited SERFF Filing Transmittal Form
Bypass Reason:	N/A
Attachment(s):	
Item Status:	APPROVED
Status Date:	05/08/2018

Bypassed - Item:	Consulting Authorization
Bypass Reason:	N/A
Attachment(s):	
Item Status:	APPROVED
Status Date:	05/08/2018

Satisfied - Item:	Explanatory Memo
Comments:	
Attachment(s):	EXPLANATORY MEMORANDUM.pdf
Item Status:	APPROVED
Status Date:	05/08/2018

EXPLANATORY MEMORANDUM

New York Marine And General Insurance Company is filing a new endorsement for use with our Builders' Risk policies.

IM 0283, Section 42 Low Income Housing Tax Credit Coverage, will be available at the insured's option for insureds involved in affordable housing construction projects that are eligible for a tax credit for such work.

The Tax Credit Reform Act of 1986 provides, under Section 42 of the Internal Revenue Code, a tax credit available to developers of affordable housing as described under the Act. This endorsement provides coverage for financial loss when such credit is lost, reduced or postponed due to a delay in construction resulting from a claim covered under the Builder's Risk coverage.

There will be a premium charge for this endorsement. We are including with this filing a rule page regarding development of the premium charge. We intend to use for this endorsement the same rating procedure used under AAIS builder's risk Delay In Construction rating rules for a similar AAIS tax credit endorsement (Historic Preservation Tax Credit). We believe that this is an appropriate charge for the endorsement being filed, as the coverage being provided under this endorsement and under the AAIS Historic Preservation Tax Credit endorsement is essentially the same – a coverage under Delay In Construction that provides for loss, reduction, or postponement of a tax credit when damage occurs to an eligible project.